Policy on telecast of cricket matches

968. SHRI VIJAY J. DARDA: Will the Minister of INFORMATION AND BROADCASTING be pleased to state.

(a) the firm and sustained policy for telecasting/broadcasting of cricket matches between Indian cricket team and any other foreign-based team, whether played in India or at any other place;

(b) what steps Ministry of Information and Broadcasting had taken to ensure that India-West Indies cricket series, played from the third week of January, 2007, are shown on Doordarshan and broadcast on All India Radio; and

(c) who is responsible for the non-telecasting/broadcasting of Nagpur match, and whether it was due to lack of established policy of Prasar Bharati or some random official lapse?

THE MINISTER OF INFORMATION AND BROADCASTING (SHRI PRIYARANJAN DASMUNSI): (a) The President has promulgated "The Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Ordinance, 2007" on 2nd February, 2007 [copy annexed as Statement (*See* below)] to provide access to the largest number of listeners and viewers, on a free to air basis, of sporting events of national importance through mandatory sharing of sports broadcasting signals with Prasar Bharati, Doordarshan. It will enable live telecast of cricket matches featuring India and other teams.

(b) and (c) Nimbus Communication Limited, who is the current rights holder as per the contract signed between BCCI and them, refused to share signals with Prasar Bharati. In terms of the Uplinking Guidelines dated 2.12.2005, Nimbus had to share the feed of the matches with Doordarshan for transmission on terrestrial channel and DTH. However, Nimbus came up with a number of conditions which included encryption, exclusion of Doordarshan's DTH and delayed transmission etc. instead of complying with the Guidelines. Nimbus had earlier in February, 2006 complied with the Guidelines but this time around Nimbus went to the High Court of Delhi challenging the validity of Guidelines as also the condition imposed upon them by the Government of India while granting the Uplinking license dated 19.1.2007 to the effect that they would have to share the signals with Prasar Bharati. As the matter was under consideration of Delhi High Court which had not given any direction on the day of play of Nagpur match, Prasar Bharati could not telecast that match.

Statement

Notification regarding the Sports Broadcasting Signals

रजिस्ट्री सं० डी० एल०—(एन)04/0007/2003—07 REGITERED NO. DL—(N)04/0007/2003—07

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 2nd February, 2007/13 Magha, 1928 (Saka)

THE SPORTS BROADCASTING SIGNALS (MANDATORY SHARING WITH PRASAR BHARATI) ORDINANCE, 2007

No. 4 OF 2007

Promulgated by the President in the Fifty-eighth Year of the Republic of India.

An Ordinance to provide access to the largest number of listeners and viewers, on a free to air basis, of sporting events of national importance through mandatory sharing of sports broadcasting signals with Prasar Bharati and for matters connected therewith or incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Ordinance may be called the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Ordinance, 2007.

(*2*) It extends to the whole of India.

(*3*) Save as otherwise provided, it shall be deemed to have come into force on the 11th day of November, 2005.

Definitions.

2. (*1*) In this Ordinance, unless the context otherwise requires,—

(*a*) "broadcaster" means any person who provides a content broadcasting service and includes a broadcasting network service provider when he manages and operates his own television or radio channel service;

(*b*) "broadcasting" means assembling and programming any form of communication content, like signs, signals, writing, pictures, images and sounds, and either placing it in the electronic form on electro-magnetic waves on specified frequencies and transmitting it through space or cables to make it continuously available on the carrier waves, or continuously streaming it in digital data form on the computer networks, so as

to be accessible to single or multiple users through receiving devices either directly or indirectly; and all its grammatical variations and cognate expressions;

(*c*) "broadcasting service" means assembling, programming and placing communication content in electronic form on the electro-magnetic waves on specified frequencies and transmitting it continuously through broadcasting network or networks so as to enable all or any of the multiple users to access it by connecting their receiver devices to their respective broadcasting networks and includes the content broadcasting services and the broadcasting network services;

(*d*) "broadcasting network service" means a service, which provides a network of infrastructure of cables or transmitting devices for carrying broadcasting content in electronic form on specified frequencies by means of guided or unguided electro-magnetic waves to multiple users, and includes the management and operation of any of the following:

(*i*) Teleport/Hub/Earth Station,

(*ii*) Direct-to-Home (DTH) Broadcasting Network,

(*iii*) Multi-system Cable Television Network,

(*iv*) Local Cable Television Network,

(*v*) Satellite Radio Broadcasting Network,

(*vi*) any other network service as may be prescribed by the Central Government;

(*e*) "cable television channel service" means the assembly, programming and transmission by cables of any broadcasting television content on a given set of frequencies to multiple subscribers;

(*f*) "cable television network" means any system consisting of closed transmission paths and associated signal generation, control and distribution equipment, designed to receive and re-transmit television channels or programmes for reception by multiple subscribers;

(*g*) "community radio service" means terrestrial radio broadcasting intended and restricted only to a specific community and within specified territory;

(*h*) "content" means any sound, text, data, picture (still or moving), other audio-visual representation, signal or intelligence of any nature or any combination thereof which is capable of being created, processed, stored, retrieved or communicated electronically;

(*i*) "content broadcasting service" means the assembling, programming and placing content in electronic form and transmitting or retransmitting the same on electro-magnetic waves on specified frequencies, on a broadcasting network so as to make it available for access by multiple users by connecting their receiving devices to the network, and includes the management and operation of any of the following:

(i) terrestrial television service,

(ii) terrestrial radio service,

(iii) satellite television service,

(iv) satellite radio service,

(v) cable television channel service,

(vi) community radio service;

(vii) any other content broadcasting services as may be prescribed by the Central Government;

(j) "Direct-to-Home (DTH) broadcasting service" means a service for multi-channel distribution of programmes direct to a subscriber's premises without passing through an intermediary such as a cable operator by uplinking to a satellite system;

(k) "Guidelines" means the Guidelines issued under section 5;

(l) "multi-system cable television network" means a system for multi-channel downlinking and distribution of television programmes by a land-based transmission system using wired cable or wireless cable or a combination of both for simultaneous reception either by multiple subscribers directly or through one or more local cable operators;

(*m*) "Prasar Bharati" means the Corporation known as the Prasar Bharati (Broadcasting Corporation of India) established under sub-section (1) of section 3 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990; 25 of 1990.

(*n*) "prescribed" means prescribed by rules made under this Ordinance;

(*o*) "satellite television service" means a television broadcasting service provided by using a satellite, and received with or without the help of a local delivery system but does not include Direct-to-Home delivery service;

(*p*) "satellite radio service" means a radio broadcasting service provided by using a satellite and directly receivable through receiver sets by multiple subscribers in India;

(*q*) "service provider" means provider of a broadcasting service;

(*r*) "specified" means specified under the Guidelines issued under section 5;

(*s*) "sporting events of national importance" means such national or international sporting events, held in India or abroad, as may be notified by the Central Government in the Official Gazette to be of national importance;

(*t*) "terrestrial television service" means a television broadcasting service provided over the air by using a land-based transmitter and directly received through receiver sets by the public;

(*u*) "terrestrial radio service" means a radio broadcasting service provided over the air by using a land-based transmitter and directly received through receiver sets by the public.

(*2*) Words and expressions used and not defined in this Ordinance and defined in the Cable Television Networks (Regulation) Act, 1995, the Telecom Regulatory Authority of India Act, 1997, the Indian Telegraph Act, 1885, the Indian Wireless Telegraphy Act, 1933 shall have the meanings respectively assigned to them in those Acts. 07 of 1995 24 of 1997. 13 of 1885. 17 of 1933.

CHAPTER II

MANDATORY SHARING OF SPORTS BROADCASTING SIGNALS WITH PRASAR BHARATI

Mandatory sharing of certain sports broadcasting signals.

3. (*1*) No content rights owner or holder and no television or radio broadcasting service provider shall carry a live television broadcast on any cable or Direct-to-Home network or radio commentary broadcast in India of sporting events of national importance, unless it simultaneously shares the live broadcasting signal, without its advertisements, with the Prasar Bharati to enable them to re-transmit the same on its terrestrial networks and Direct-to-Home networks in such manner and on such terms and conditions as may be specified.

(*2*) The terms and conditions under sub-section (*1*) shall also provide that the advertisement revenue

sharing between the content rights owner or holder and the Prasar Bharati shall be in the ratio of not less than 75:25 in case of television coverage and 50:50 in case of radio coverage.

(3) The Central Government may specify a percentage of the revenue received by the Prasar Bharati under sub-section (2), which shall be utilised by the Prasar Bharati for broadcasting other sporting events.

Penalties.

4. The Central Government may specify penalties to be imposed, including suspension or revocation of licence, permission or registration, for violation of various terms and conditions as may be specified under section 3, subject to the condition that amount of a pecuniary penalty shall not exceed one crore rupees:

Provided that no penalty shall be imposed without giving a reasonable opportunity to the service provider:

Provided further that no act or omission on the part of any person after the 11th November, 2005 and before the date of promulgation of the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Ordinance, 2007 shall be subjected to penalties.

CHAPTER III

POWERS OF THE CENTRAL GOVERNMENT TO ISSUE GUIDELINES

Power of the Central Government to issue Guidelines.

5. The Central Government shall take all such measures, as it deems fit or expedient, by way of issuing Guidelines for mandatory sharing of broadcasting signals with Prasar Bharati relating to sporting events of national importance:

Provided that the Guidelines issued before the promulgation of the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Ordinance, 2007 shall be deemed to have been issued validly under the provisions of this section.

CHAPTER IV

MISCELLANEOUS

Validation.

6. *(1)* The provisions of the Guidelines issued by the Central Government for Downlinking of Television Channels on the 11th November, 2005 and for Uplinking from India on the 2nd December, 2005 for mandatory sharing of the sports broadcasting signals shall be deemed to be valid as if they have been issued under this Ordinance.

(2) Notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority, any action taken by the Central Government or the Prasar Bharati in pursuance of the guidelines referred to in sub-section (1) shall be deemed to be and to have always been for all purposes in accordance with the law, as if the Guidelines had been validly in force at all material times and notwithstanding anything as aforesaid and without prejudice to the generality of the foregoing provisions, no legal proceeding shall be maintained or continued in any court for the enforcement of any direction given by any court or any decree or order which would not have been so given had the Guidelines been validly in force at all material times.

Power of the Central Government to make rules.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Ordinance.

Rules and Guidelines to be laid before Parliament.

8. Every rule and Guidelines made and issued, as the case may be, under this Ordinance shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions

aforesaid, both Houses agree in making any modification in the rule or Guidelines, or both Houses agree that the rule or Guidelines should not be made, the rule or Guidelines shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or Guidelines.

Saving.

9. The relevant provisions under the Guidelines for Downlinking of Television Channels issued on the 11th November, 2005 and the Guidelines for Uplinking from India issued on the 2nd December, 2005 for mandatory sharing of sports broadcasting signals with Prasar Bharati, shall continue to remain in force till fresh Guidelines are issued under this Ordinance.

A. P. J. ABDUL KALAM,
President.

K. N. CHATURVEDI,
Secy. to the Govt. of India